

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN ROONEY  
Assistant Chief Counsel  
3 BLAINE A. NOBLETT (State Bar No. 235612)  
Senior Counsel  
4 Department of Business Oversight  
320 West 4th Street, Suite 750  
5 Los Angeles, California 90013-2344  
Telephone: (213) 576-1396  
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

8  
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
10 OF THE STATE OF CALIFORNIA

11 In the Matter of: ) CRMLA LICENSE NO.: 413-0364  
12 )  
13 THE COMMISSIONER OF BUSINESS ) STATEMENT OF FACTS IN SUPPORT OF  
OVERSIGHT, ) ORDER TO DISCONTINUE VIOLATIONS  
14 ) UNDER FINANCIAL CODE SECTION 50321  
Complainant, ) AND NOTICE OF INTENT TO MAKE  
15 ) ORDER FINAL  
16 v. )  
17 )  
18 DHI MORTGAGE COMPANY, LTD., L.P., )  
19 Respondent. )  
20 )  
21 )

22 The Complainant, Jan Lynn Owen, the Commissioner of Business Oversight (Commissioner),  
23 is informed and believes and based upon such information and belief, alleges and charges as follows:

24 **I.**

25 **Introduction**

26 1. DHI Mortgage Company, LTD., L.P. (DHI) is a residential mortgage lender licensed  
27 under the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.). DHI  
28 has its principal place of business located at 10700 Pecan Park Boulevard, Suite 450, Austin, Texas.

1 DHI operates branch locations in California under its CMRLA license and employs mortgage loan  
2 originators in its CRMLA business.

3 **II.**

4 **Per-Diem-Interest Overcharges**

5 2. On or about June 5, 2017, the Commissioner, by and through her examination staff,  
6 commenced a regulatory examination of the books and records of DHI under the CRMLA (2017  
7 regulatory examination).

8 3. The 2017 regulatory examination disclosed that in five out of 21 funded loan files, or  
9 approximately 24 percent of the loan files reviewed, DHI overcharged borrowers' per diem interest in  
10 excess of one day prior to the disbursement of loan proceeds in violation of Financial Code section  
11 50204, subdivision (o). The per-diem-interest overcharges varied between approximately \$99.64 and  
12 \$376.71, and DHI overcharged borrowers from at least three to five days interest (in one file, DHI  
13 calculated the borrower's per diem interest using the incorrect interest rate).

14 4. The Commissioner previously found DHI had overcharged borrowers' per diem  
15 interest in one out of 20 loan files reviewed during the May 13, 2013 regulatory examination. Based  
16 on the findings of the 2013 regulatory examination, the Commissioner instructed DHI to implement  
17 such procedures as necessary to ensure it would not overcharge per diem interest in the future.

18 **III.**

19 **Conclusion**

20 5. By reason of the foregoing, DHI has violated Financial Code section 50204,  
21 subdivision (o).

22 6. Financial Code section 50321 provides in pertinent part:

23 If, after investigation, the commissioner has reasonable grounds to  
24 believe that any licensee has violated its articles of incorporation or any  
25 law or rule binding upon it, the commissioner shall, by written order  
26 addressed to the licensee, direct the discontinuance of the violation.  
The order shall be effective immediately, but shall not become final  
except in accordance with the provisions of Section 50323.

27 7. Financial Code section 50323 provides:  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(a) No order issued pursuant to Section 50321 or 50322 may become final except after notice to the affected licensee of the commissioner’s intention to make the order final and of the reasons for the finding. The commissioner shall also notify the licensee that upon receiving a request the matter will be set for hearing to commence within 15 business days after receipt. The licensee may consent to have the hearing commence at a later date. If no hearing is requested within 30 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may become final without hearing and the licensee shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under that act. If, upon the hearing, it appears to the commissioner that the licensee is conducting business in an unsafe and injurious manner or is violating its articles of incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensee shall immediately discontinue the practices named in the order.

(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If the enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the licensee shall comply with the order.

WHEREFORE, good cause showing, the Commissioner has issued an Order to Discontinue Violations Under Financial Code section 50321 and notifies DHI of the Commissioner’s intention to make the order final.

Dated: January 9, 2019

Los Angeles, California

JAN LYNN OWEN

Commissioner of Business Oversight

By \_\_\_\_\_

Blaine A. Noblett  
Senior Counsel  
Enforcement Division